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Public Service Commission Of West Virginia

201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323

James D. Williams
Chairman



December 26, 2001

VIA OVERNIGHT DELIVERY

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
Office of the Secretary
445-12th Street, SW, Room TW-204B
Washington, DC 20554

Re: CC Docket No. 96-45: Certification Under 47 U.S.C. § 254(e).

Dear Secretary Salas:

The Public Service Commission of West Virginia (WVPSC) hereby submits its certification in accordance with 47 C.F.R. §§ 54.313 & .314. These sections of the Commission's rules require state certification in order to allow incumbent local exchange carriers (incumbent LECs or ILECs) and competitive LECs that have been designated as eligible telecommunications carriers (ETCs), to receive federal universal service support pursuant to 47 C.F.R. §§ 54.301 to .314.

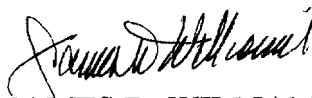
As required by 47 C.F.R. §§ 54.313(a) & .314(a), the WVPSC certifies that the following carriers in West Virginia are eligible to receive federal support during April 1, 2002 to December 31, 2002: FiberNet, LLC. By recommended decision entered November 14, 2001, which became a final order of the WVPSC on November 20, 2001, FiberNet – a competitive LEC – was designated an ETC by the WVPSC. See "Recommended Decision," FiberNet, LLC, Case No. 01-0488-T-PC (Nov. 14, 2001; Final Nov. 20, 2001). The WVPSC further certifies that FiberNet will use federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act of 1934, as amended. This certification is the product of formal proceedings before the WVPSC. See "Commission Order," Petition to Initiate a General Investigation Re: Certification of the Disposition of Federal Universal Service Funding for Calendar Year

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2002, Case No. 01-1129-T-PC (Dec. 21, 2001) (copy attached).¹

On behalf of the people of West Virginia, the WVPSC expresses its appreciation for the Commission's efforts in arriving at a mechanism to provide support that will reduce monthly rates for the bulk of consumers and make those rates more comparable to rates paid by consumers in other parts of the Nation.

Very truly yours,



JAMES D. WILLIAMS, Chairman

JDW/ljm

Enclosure

cc: Irene Flannery, Universal Service Administrative Company
2120 L Street, NW
Suite 600
Washington, DC 20037
fax (202) 776-0080

¹WVPSC orders and decisions can also be viewed or downloaded from the following link on the Commission's Internet website: <http://www.psc.state.wv.us/orders>.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

CERTIFICATION OF TRUE COPY

RE: CASE NO. 01-1129-T-PC
GENERAL INVESTIGATION REGARDING
certification for the disposition of federal
universal service funding by incumbent local
exchange telecommunications carriers and
competitive eligible telecommunications
carriers in West Virginia for calendar year 2002.

I, Sandra Squire, Executive Secretary of the Public Service Commission of West Virginia, certify that the attached is a true copy of the December 21, 2001, Commission Order, in the above proceeding, as the same appears on file and of record in my office.

Given under my hand and the seal of the Public Service Commission of West Virginia, in the City of Charleston, Kanawha County, this 26th day of December, 2001.

A handwritten signature in cursive script, appearing to read "Sandra Squire", followed by a large, stylized circular flourish or mark.

Sandra Squire
Executive Secretary

SS/cg
Encl.

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 21st day of December, 2001.

CASE NO. 01-1129-T-PC (REOPENED)

GENERAL INVESTIGATION REGARDING

certification for the disposition of federal universal
service funding by incumbent local exchange
telecommunications carriers and competitive
eligible telecommunications carriers in West Virginia
for calendar year 2002.

COMMISSION ORDER

In September 2001, the Commission certified the disposition of federal universal service funding by incumbent local exchange carriers (LECs) and competitive eligible telecommunications carriers (ETCs). Since that time, another carrier has become an ETC. Accordingly, in this order, the Commission certifies the disposition of federal universal service funding by the newest ETC.

BACKGROUND

On September 26, 2001, the Commission certified to the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) that several LECs and ETCs were eligible to continue to receive federal universal service support for the entire calendar year 2002, based upon their verified statements that they use federal universal service funds only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act of 1934, as amended.¹ Comm'n Order p. 3, GI Re: Certification of the Disposition of Universal Service Funds, Case No. 01-1129-T-PC (Sept. 26, 2001).

On November 20, 2001, FiberNet, LLC was designated, pursuant to 47 U.S.C. § 241(e), as an ETC by the Commission. Comm'n Order p. 13, FiberNet LLC, Case No. 01-

¹ The Telecommunications Act of 1934 was substantially modified in 1996. Therefore, the Commission and the parties refer to the statute with the terms "Telecommunications Act of 1996" and "Telecommunications Act of 1934, as amended" interchangeably in this case.

On December 3, 2001, FiberNet filed a verified statement that it will use federal universal service fund support only for the provision, maintenance and upgrading of facilities and services for which support is necessary, consistent with Section 254(e) of the Telecommunications Act of 1996. Verified Statement p. 1.

On December 21, 2001, FiberNet said that its Verified Statement was intended as a petition to reopen this case. Ltr. pp. 1-2. FiberNet's statement was filed to complete the requirements necessary for FiberNet to be eligible to receive funding from the federal universal service fund during calendar year 2002. Id. p. 1. FiberNet asked the Commission to expedite its review because certification from the Commission before January 1, 2002, is required for FiberNet to be eligible to receive universal service support for the second, third and fourth quarters of calendar year 2002. Id.

On December 21, 2001, Commission Staff recommended that FiberNet's petition to reopen be granted. Further Final Joint Staff Memorandum pp. 1-2. Staff recommended that the Commission find that FiberNet is using federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended. Id. pp. 1-2. Staff also advised it was appropriate for the Commission to certify to the FCC and the USAC that FiberNet is eligible to receive federal universal service support, based on its verified statement. Id. p. 2. For FiberNet to receive USF support beginning with the second quarter (April 1, 2002), the Commission must issue an order consistent with Staff's recommendation and file the letters with the FCC and USAC by January 2, 2002, Staff said. Id. p. 2.

DISCUSSION

This case should be reopened to consider FiberNet's petition.

The Commission recently named FiberNet as an ETC. As recommended by Staff, the Commission finds that FiberNet will use USF support only for the provision, maintenance and upgrading of facilities and services for which support is necessary, consistent with Section 254(e) of the Telecommunications Act of 1996. Accordingly, it is appropriate for the Commission to certify to the FCC and the USAC that FiberNet is eligible to receive federal universal service support, based on FiberNet's verified statement. Id. p. 2.

Due to the approaching deadline for FiberNet to be eligible for USF support beginning in the second quarter of 2002, FiberNet's motion for expedited treatment is reasonable and should be granted.

FINDINGS OF FACT

1. On November 20, 2001, FiberNet was designated, pursuant to 47 U.S.C. § 241(e), as an ETC by the Commission. Comm'n Order p. 13, FiberNet LLC, Case No. 01-0488-T-PC (Rec. Dec. Nov. 14, 2001, final Nov. 20, 2001).
2. On December 3, 2001, FiberNet filed a verified statement that it will use federal universal service fund support only for the provision, maintenance and upgrading of facilities and services for which support is necessary, consistent with Section 254(e) of the Telecommunications Act of 1996. Verified Statement p. 1.
3. On December 21, 2001, FiberNet said that its Verified Statement was intended as a petition to reopen this case to complete the requirements necessary for FiberNet to be eligible to receive funding from the federal universal service fund during calendar year 2002. Ltr. pp. 1-2.
4. On December 21, 2001, Commission Staff recommended that FiberNet's petition to reopen be granted. Further Final Joint Staff Memorandum pp. 1-2.

CONCLUSIONS OF LAW

1. Since the Commission recently named FiberNet an ETC and FiberNet will use USF support only for the provision, maintenance and upgrading of facilities and services for which support is necessary, consistent with Section 254(e) of the Telecommunications Act of 1996, it is reasonable to certify, as recommended by Staff, that FiberNet is eligible to receive federal universal service support. Id. p. 2.
2. Due to the approaching deadline for FiberNet to be eligible for second quarter USF support, the motion for expedited treatment should be granted.

ORDER

IT IS THEREFORE ORDERED that this case is reopened.

IT IS FURTHER ORDERED that FiberNet shall only use universal service fund support for the provision, maintenance and upgrading of facilities and services for which support is necessary, consistent with Section 254(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that it is appropriate to certify to the FCC and USAC that FiberNet is eligible to receive federal universal service support, beginning in the second quarter of calendar year 2002, based on the verified statement submitted to the Commission.

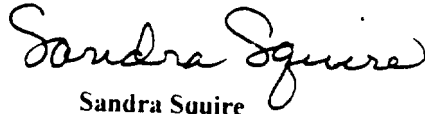
IT IS FURTHER ORDERED that FiberNet's motion for expedited treatment is granted.

IT IS FURTHER ORDERED that this proceeding be removed from the Commission's docket of active cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

CLW/sek
011129cb.wpd

A True Copy, Teste:


Sandra Squire
Executive Secretary